

ORDINANCE NO. 07-70

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 86 ENTITLED "TAXATION", ARTICLE II. OCCUPATIONAL LICENSE TAX, AND IN PARTICULAR, REVISING HIALEAH CODE § 86-34 ENTITLED "OCCUPATIONAL LICENSE REQUIRED" TO PROVIDE FOR ENHANCED FEES FOR ISSUANCE OF A TEMPORARY OCCUPATIONAL LICENSES (BUSINESS TAX RECEIPTS) FOR NEW BUSINESSES PRIOR TO FINAL APPROVAL OF THE FIRE DEPARTMENT WHERE LICENSEE IS ACTIVELY TAKING CORRECTIVE ACTION ON A CURE PLAN APPROVED BY THE FIRE DEPARTMENT FOR A TIME PERIOD OF UP TO 90 DAYS, UNLESS EXTENDED FOR GOOD CAUSE BY THE FIRE CHIEF OR FIRE MARSHAL; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE OF OCTOBER 1, 2007.

**WHEREAS**, the purpose and intent of this ordinance is to allow the issuance of a temporary business tax receipt (occupational license) to a new business pending correction of fire code violations and deficiencies provided that the licensee correct such fire code violations and deficiencies within a period of no more than 90 days, unless extended for good cause by the fire chief or fire marshal, under a city-approved cure plan; and

**WHEREAS**, the City of Hialeah finds that new business owners are delayed in opening a new business pending final approval by the Fire Department under circumstances where code violations can be corrected over several months without interfering with the safety of the operation of the business and its customers; and

**WHEREAS**, the City of Hialeah finds that it is in the best interest of comity, health, safety, welfare and the proper administration and governance of the City to balance the interest of compliance with technical codes with the operation of new businesses and provision of new services to the community.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** Chapter 86 entitled "Taxation", Article II. Occupational License Tax, of the Code of Ordinances of the City of Hialeah, Florida, in particular, Hialeah Code § 86-34 entitled "Occupational license required", is hereby amended to read as follows:

Chapter 86

**TAXATION**

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**ARTICLE II. OCCUPATIONAL LICENSE TAX**

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**Sec. 86-34. Occupational license/business tax receipt required.**

(a) No person shall engage in or manage any business, profession, service or occupation in the city, for which an occupational license/business tax receipt and fee are required in this Code, without first obtaining such license and paying the required fee.

(b) Separate licenses/business tax receipts will be required for each place of business or by each separate classification of business at the same location.

(c) Temporary license/business tax receipt. The city may issue a temporary license/business tax receipt for 45 days upon payment of double the amount of the license/business tax receipt fee to engage in or manage any business, profession, service or occupation in the city for which an occupational license/business tax receipt and fee are required in this Code prior to final approval of the fire department if the licensee actively takes corrective action to complete a cure plan approved by the fire department to eliminate any fire code violations or deficiencies. The license administrator shall certify that all other

requirements and approvals have been provided prior to providing the temporary license/business tax receipt.

Upon payment of three times the amount of the license/business tax receipt fee, the city may issue a temporary license/business tax receipt for 90 days prior to final approval of the fire department if the licensee actively takes corrective action to complete a cure plan approved by the fire department. The fire department reserves the right to modify the cure plan if additional violations are discovered or revealed while corrective action is being taken. If the cure plan requires additional time beyond 90 days and only upon approval of the fire chief or fire marshal based on good cause, the expiration of a temporary license may be extended upon payment of an additional amount equal to the license/business tax receipt fee. The license section will provide an annual license/business tax receipt only after the fire department has given its final approval based on the completion of a cure plan that has eliminated all fire code violations or deficiencies covered in the cure plan. If the temporary license/business tax receipt expires prior to final fire department approval, the applicant shall cease operating the business immediately. The police department shall have authority to prevent access to the premises, including locking outside doors facing the street or public areas until such time that an annual license/business tax receipt has been issued or provided.

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**Section 2:    Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 3:    Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the

City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

**Section 4: Inclusion in Code.**

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

**Section 5: Severability Clause.**

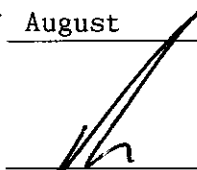
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

**Section 6: Effective Date.**

This ordinance shall become effective on October 1, 2007.

PASSED AND ADOPTED this 28<sup>th</sup> day of August, 2007.

THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 186.041  
PRIOR TO FINAL READING.

  
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Esteban Bovo  
Council President

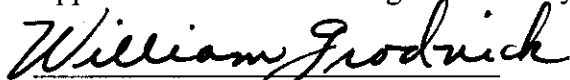
Attest:

Approved on this 30 day of August, 2007.

  
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Rafael E. Granado, City Clerk

  
\_\_\_\_\_  
Mayor Julio Robaina

Approved as to form and legal sufficiency:

  
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William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.

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Ordinance was adopted by a unanimous vote with Councilmembers Bovo, Caragol, Casals-Muñoz, Gonzalez, Hernandez, Miel and Yedra voting "Yes".